

Notice of Allowability

Application No.

10/684,070

Applicant(s)

BUDACH ET AL.

Examiner

Patrick J Connolly

Art Unit

2877

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 25 October 2004.
2. ☒ The allowed claim(s) is/are 30-36, 40-44, 46 and 48.
3. ☒ The drawings filed on 26 January 2004 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 09/609,846.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

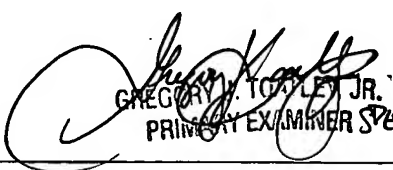
* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413), Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |


GREGORY J. TOOLEY JR.
PRIMARY EXAMINER S/E 2877

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Gerald T. Gray on November 18, 2004.

The application has been amended as follows:

Claim 48 now reads:

48. The platform of claims 30 or 32, wherein each type of capture molecule includes a molecule selected from the group consisting of a nucleotide, an oligonucleotide, DNA, RNA, PNA, an antibody, an antigen, a protein, an antibiotic, a drug, an enzyme, a ligand, a peptide, a polymer, a molecular probe, a receptor, an indicator and a tissue sample.

Terminal Disclaimer

The terminal disclaimer filed on October 25, 2004 disclaiming the terminal portion of any patent granted on this application that would extend beyond the expiration date of U.S. Patent No. 6,707,561 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Allowable Subject Matter

Claims 30-36, 40-44, 46 and 48 allowed.

The following is an examiner's statement of reasons for allowance:

As to claim 30, the prior art of record, taken alone or in combination, fails to disclose or render obvious a platform including: an optically transparent substrate having a refractive index (n_1), a thin, optically transparent layer, formed on one surface of the substrate, said layer having a refractive index (n_2) which is greater than (n_1), said platform incorporating therein one or multiple corrugated structures comprising periodic grooves which define the one or multiple sensing areas or regions, said grooves being so profiled, dimensioned and oriented that coherent light incident on said platform is diffracted into individual beams or diffraction orders which interfere resulting in reduction of the transmitted beam and an abnormal high reflection of the incident light thereby generating an enhanced evanescent field at a surface of the one or more sensing areas, in combination with the rest of the limitations of claim 30.

As to claim 32, the prior art of record, taken alone or in combination, fails to disclose or render obvious a platform including: substrate having a refractive index (n_1), a thin, optically transparent layer, formed on one surface of the substrate, said layer having a refractive index (n_2) which is greater than (n_1), said platform incorporating therein one or multiple corrugated structures comprising periodic grooves which define the one or multiple sensing areas or regions,

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said grooves being so profiled, dimensioned and oriented that coherent and linearly polarized light incident on said platform is diffracted into individual beams or diffraction orders which interfere resulting in a substantially total extinction of the transmitted beam and an abnormal high reflection of the incident light thereby generating an enhanced evanescent field at a surface of the one or more sensing areas, in combination with the rest of the limitations of claim 32.

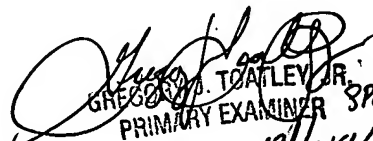
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick J Connolly whose telephone number is 571.272.2412. The examiner can normally be reached on 9:00 am - 7:00 pm Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J Toatley, Jr. can be reached on 571.272.2800 ext. 77. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

pjc PJC
11.18.2004


GREGORY J. TOATLEY, JR.
PRIMARY EXAMINER SPE 2877
11/18/04